

APR 28 2004

Submission of Federal Rules Under the Congressional Review Act

☐ President of the Senate

☒ Speaker of the House of Representatives

☐ GAO

AS
R08070
TO 8439

Please fill the circles electronically or with black pen or #2 pencil.

1. Name of Department or Agency

Department of Defense

2. Subdivision or Office

OUS(DAT&L)DPAP(DAR)

3. Rule Title

Multiyear Contracting Authority Revisions

4. Rule Identification Number (RIN) or Other Unique Identifier (if applicable)
DFARS Case 2002-D041

5. Major Rule ☐ Non-major Rule ☒

6. Final Rule ☒ Other ☐

7. With respect to this rule, did your agency solicit public comments? Yes ☒ No ☐ N/A ☐

8. Priority of Regulation (fill in one)

☒ Economically Significant; or
Significant; or
Substantive, Nonsignificant

☐ Routine and Frequent or
Informational/Administrative/Other
(Do not complete the other side of this form
if filled in above.)

9. Effective Date (if applicable) March 19, 2004 (estimated)

10. Concise Summary of Rule (fill in one or both) attached ☒ stated in rule ☐

Submitted by: Doreen G. Smith (signature)

Name: Deidre A. Lee

Title: Director, Defense Procurement and Acquisition Policy

For Congressional Use Only:

Date Received: _____

Committee of Jurisdiction: _____

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SPEAKER'S ROOMS
U.S. HOUSE OF REPS.

	Yes	No	N/A
A. With respect to this rule, did your agency prepare an analysis of costs and benefits?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
B. With respect to this rule, at the final rulemaking stage, did your agency			
1. certify that the rule would not have a significant impact on a substantial number of small entities under 5 U.S.C. § 605(b)?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
C. With respect to this rule, did your agency prepare a written statement under § 202 of the Unfunded Mandates Reform Act of 1995?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
D. With respect to this rule, did your agency prepare an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
E. Does this rule contain a collection of information requiring OMB approval under the Paperwork Reduction Act of 1995?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
F. Did you discuss any of the following in the preamble to this rule?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12612, Federalism	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12866, Regulatory Planning and Review	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12875, Enhancing the Intergovernmental Partnership	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12988, Civil Justice Reform	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• Other statutes or executive orders discussed in the preamble concerning the rulemaking process (please specify)			

(Billing Code 5001-08-P)

DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 2002-D041]

Defense Federal Acquisition Regulation Supplement;

Multiyear Contracting Authority Revisions

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 820 of the National Defense Authorization Act for Fiscal Year 2003. Section 820 restricts the use of multiyear contracts for supplies to only those for complete and usable end items, and restricts the use of advance procurement to only those long-lead items necessary in order to meet a planned delivery schedule for complete major end items.

EFFECTIVE DATE: *[Date of publication in Federal Register]*.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2002-D041.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 68 FR 50474 on August 21, 2003. The rule amended DFARS Subpart 217.1 to implement Section 820 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314). Section 820 amended the multiyear contracting authority at 10 U.S.C. 2306b(i) to specify that DoD may obligate funds for procurement of an end item under a multiyear contract only if the item is a complete and usable end item; and that DoD may obligate funds for advance procurement of property only for those long-lead items necessary to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law).

DoD received no comments on the interim rule. Therefore, DoD is adopting the interim rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule primarily pertains to DoD planning and budget considerations with regard to multiyear contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 217

Government procurement.

Michele P. Peterson,

Executive Editor,

Defense Acquisition Regulations Council.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 217, which was published at 68 FR 50474 on August 21, 2003, is adopted as a final rule without change.